

Appl. No. 10/820,909  
Amdt. dated October 4, 2005  
Reply to Office action of July 29, 2005

### REMARKS/ARGUMENTS

#### Claim Objections

5 Claims 2, 4-5, 11, 13-14, 21-22, 24-25, 27-28, 31-32, and 39 stand as objected to because of various informalities identified by the Examiner. Applicant appreciates the Examiner identifying these informalities and has amended the claims according to the Examiner's recommendations, mainly correcting for typographical errors.

#### Claim Rejections – 35 USC §112, second paragraph

10 Claims 28 and 32-38 stand as rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner states, "Claim 28 recites the limitation 'a pivotal mounting means' in lines 2-3. There is insufficient antecedent basis for this limitation in the claim."

15 Applicant has amended claim 28 to show that the mounting means is pivotally attached to the vehicle frame. Support for this claim is found in Figure 1 and on page 8, lines 20-25. Applicant respectfully requests that the Examiner withdraw the rejection.

20 With respect to claims 32-38, the Examiner states, "Claim 32 recites the limitation 'a mounting means' in line 2. There is insufficient antecedent basis for this limitation in the claim."

25 Claim 32 has been amended to show that each second end of each scissor arm mounting means is pivotally attached to the underside of the dump body. Support for this claim is found on page 9, lines 19-20. Claims 33-38 are dependent on claim 32 and, therefore, incorporate the limitations of claim 32. Applicant respectfully requests that the Examiner withdraw the rejection.

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Claim Rejections – 35 USC §102

Claims 1, 9, 21, 29 and 39 stand as rejected under 35 USC §102(b) as being anticipated by Parker et al. (US 3,740,097). The Examiner asserts that, “Parker et al. disclose a vehicle dump body elevation device comprising at least one hinge assembly for attaching a dump body to a vehicle frame, the hinge assembly having a lowered position wherein the dump body is substantially horizontal and a raised position wherein a front portion of the dump body is elevated higher than a rear portion of the dump body, and wherein the rear portion of the dump body is elevated clear of a rear bumper mounted on the vehicle frame; wherein the hinge assembly moves both the front and the rear portions of the dump body upwardly while pivoting the dump body to the raised position; and at least one hoist having a lower end pivotally attached to the vehicle frame and an upper end pivotally attached to the dump body.”

Applicant respectfully disagrees. Parker et al. is directed to a dump bed that is inserted into the bed of a pick-up truck. The standard or conventional tail gate or door must be removed from the pick-up truck. (See column 2, lines 20-30 and Figures 1 and 2.) In addition, the “body is capable of tilting from its lowered position shown in FIG. 1 to its elevated position illustrated in FIG. 2, wherein the rear end plate 38 is sloping downwardly so that the load in the body may be easily and fully discharged.” (column 2, lines 55-60) Applicant’s invention is a vehicle dump body elevation device which by way of operation enables the dump body to be elevated clear of a rear bumper mounted on the vehicle frame. (Claim 1) Moreover, applicant’s invention does not require removal of the tail gate or the bumper (see FIG. 2). Applicant’s invention is distinguished from that of Parker et al. in that applicant’s invention has a traveling rear dump body pivot point that enables elevation and rotation during dumping whereas Parker et al. disclose a downward sloping during dumping. Therefore, the rejection is without basis and should be withdrawn.

With respect to claim 9, the Examiner asserts that “the hoist comprises a scissor hoist mechanism.”

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Applicant respectfully disagrees. Claim 9 is dependent on claim 1 and therefore includes the limitations of claim 1. As stated previously, Parker et al. disclose a vehicle dump bed that fails to elevate clear of a rear bumper mounted on the vehicle frame. Rather, they disclose a downward sloping during dumping. Therefore, the rejection is without basis and should be withdrawn.

With respect to claim 21, the Examiner asserts "Parker et al. disclose a kit for modifying a vehicle to function as a dump truck, the kit comprising: at least one hinge assembly to move a dump body between a lowered position, wherein the dump body is substantially horizontal, and a raised position, wherein a front portion of the dump body is elevated higher than a rear portion of the dump body, and wherein the rear portion of the dump body is elevated clear of a rear bumper mounted on a vehicle frame; wherein the hinge assembly moves both the front and the rear portions of the dump body upwardly, while pivoting the dump body to the angled position; and at least one hoist having a first means for pivotal attachment to the vehicle frame and a second means for pivotal attachment to the dump body."

Applicant respectfully disagrees. Parker et al. disclose a dump bed that is "capable of tilting from its lowered position shown in FIG. 1 to its elevated position illustrated in FIG. 2, wherein the rear end plate 38 is slopping downwardly so that the load in the body may be easily and fully discharged." (column 2, lines 55-60) In contrast, applicant's invention is for a kit for modifying a vehicle to function as a dump truck such that the hinge assembly moves both the front and the rear portions of the dump body upwardly, while pivoting the dump body to the angled position. (Claim 21) Therefore, Parker et al. fail to disclose an upward movement of both the front and rear portions in addition to pivoting the dump body to an angled position. Hence, the rejection is without basis and should be withdrawn.

With respect to claim 29, the Examiner asserts that the hoist is a scissor hoist mechanism.

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Applicant respectfully disagrees. Claim 29 is dependent on claim 21 and therefore incorporates the limitations of claim 21. Applicant's invention is distinguished from that of Parker et al. for the reasons previously mentioned. Parker et al. fail to disclose an upward movement of both the front and rear portions in addition to pivoting the dump body to an angled position. Hence, the rejection is without basis and should be withdrawn.

With respect to claim 39, the Examiner asserts, "Parker et al. inherently disclose a method of converting a vehicle from a fixed bed vehicle to a dump truck, the method comprising: a) removing a fixed bed from a vehicle; b) providing a vehicle dump body elevation device comprising at least one hinge assembly to move a dump body between a lowered position wherein the dump body is substantially horizontal, and a raised position wherein a front portion of the dump body is elevated higher than a rear portion of the dump body, and wherein the rear portion of the dump body is elevated clear of a rear bumper mounted on the vehicle frame; wherein the hinge assembly moves both the front and the rear portions of the dump body upwardly, while pivoting the dump body to the raised position; and at least one hoist having a first means for pivotal attachment to a vehicle frame and a second means for pivotal attachment to the dump body; c) mounting the hinge assembly to the vehicle frame; d) mounting the hoist to the vehicle frame; and e) mounting the hinge assembly and the hoist to the dump body."

Applicant respectfully disagrees. Parker et al. specifically disclose that "the dump bed, indicated by numeral 30, is shown mounted in the truck bed." (Column 2, lines 22-23.) Hence, Parker et al. fail to disclose removal of a fixed bed from a vehicle. (Claim 39) Rather, Parker et al. teach a dump bed mounted in the truck bed. Therefore, the rejection is without basis and should be withdrawn.

#### Claim Rejections – 35 USC §103

Claims 10 and 30 stand as rejected under 35 USC §103(a) as being unpatentable over Parker et al. as applied to claims 9 and 29 above and further in view of Ray

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(4,019,781). The Examiner asserts, "Parker et al. lack the scissor hoist mechanism having a range of motion and rotation up to about 180 degrees. Ray teaches a hoist for a vehicle dump body elevation device having a scissor hoist mechanism with a range of motion up to about 180 degrees. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a scissor hoist mechanism as taught by Ray in place of the hoist of Parker et al. in order to allow the dump body to further rotate and allow better dumping of the contents therein."

Applicant respectfully disagrees. Claim 10 is dependent on claim 9 which is dependent on claim 1, thus incorporating the limitations of both claims 1 and 9. Parker et al. disclose a dump bed capable of tilting from its lowered position to its elevated position wherein the rear end plate is sloping downwardly so that the load in the body may be easily and fully discharged. (column 2, lines 55-60). Ray discloses a hydraulic hoist for a pickup bed. The lifting mechanism 16 is a subassembly shown in FIG. 6 which is attached between the truck chassis and bed. "Lever 92 is pivotally attached at pin 98 to coupling member 96. In turn, the opposite end of coupling member 96 is rotatably attached at pin 100 to lever 94. Interconnected between lever 94 and lever 92 is hydraulic ram 102. Ram 102 includes a cylinder 104 and movable piston arm 106. Hydraulic fluid line 110 carries fluid to and from the unit to provide for extending and retracting piston arm 106." (Col. 5, lines 22-35) FIG. 6 clearly depicts that it is not possible for the hoist of Ray to extend 180 degrees. The movable piston arm 106 would impact the pin 100 before 180 degree extension is reached. In addition, were one of ordinary skill in the art to combine the hydraulic hoist of Ray with the dump bed of Parker et al., one would not arrived at the present invention as claimed. Rather, one would obtain a dump bed that tilts and slopes downward to discharge its load rather than moving the front and rear portions of the dump body upwardly while pivoting the dump body to the raised position such that the rear portion of the dump body is elevated clear of a rear bumper mounted to the vehicle frame. Therefore, it would not have been obvious to one of ordinary skill in the art to obtain a vehicle body dump elevation device having a scissor hoist mechanism with a range of motion up to about 180 degrees such that the rear

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portion of the dump body is elevated clear of a rear bumper mounted on the vehicle frame (claims 10 and 30). Thus, the rejection is without basis and should be withdrawn.

Allowable Subject Matter

5           The Examiner has indicated that claims 28 and 32-38 would be allowable if rewritten to overcome the rejections under 35 USC §112, 2<sup>nd</sup> paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. Applicant has rewritten the claims to overcome the rejections based on 35 USC §112, 2<sup>nd</sup> paragraph. Arguments are presented with respect to the rejected base claims.

10           The Examiner has stated that claims 2-8, 11-20, 22-27, 31 and 40-43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. Arguments are presented with respect to the rejected base claims.

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**CONCLUSION**

In view of the above Amendments and Remarks, it is submitted that claims 1-43 are in condition for allowance. Reconsideration and withdrawal of the objections and rejections are requested and allowance of the claims at an early date is solicited.

Respectfully submitted,



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October 4, 2005

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